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DEPARTMENT OF STATE A/C/COMR DEPARTMENT OF STATE

DECLASSIFICATION DATE 3/17/00

INTERVIEWED BY g DATE 12/20/82PER M. Berry OFFICE NEAFADRC FOI CASE NO. 5-A-28

DATE OF INTERVIEW DATE

AUTHORITY: SECTION (S)

MEMORANDUM OF CONVERSATION

FOIA EXEMPTIONS: ☐DECLASSIFICATION: ☐RELEASE DATE: VIN PARTA or FOI EXEMPTIONS: B4

DATE: July 3, 1973

PLACE: Mr. Casey's Office

SUBJECT:-- Libyan Nationalization of Bunker Hunt

PARTICIPANTS: Mr. Henry M. Schuler, Bunker Hunt European Representative
 Mr. Conant, External Counsel to Bunker Hunt
 Mr. Casey, E
 Mr. Kempe, E
 Mr. Benskys, EB/ORF/FSE
 Mr. Blake, AF/N
 Mr. Muir, L/EB
 Mr. Ellis, EB/IFD/OIA

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Messrs. Schuler and Conant met with Mr. Casey to request USG support in their efforts against the nationalization of their Sarir Field Concession by the LARG.

Mr. Schuler explained that the company is contesting the nationalization on the same grounds being used by their concession partner, BP; namely, that it is discriminatory and without a valid public purpose. Accordingly, Hunt takes the position that the LARG action is a clear violation of international law. Asked by Mr. Casey to explain what the company meant by the charge that the action was not for a public purpose, Schuler referred to official Libyan statements describing the action as a "warning" to both the other oil companies and to the United States. In addition, Mr. Conant questioned whether the sovereign right of a state to nationalize property extended to the abrogation of a concession contract.

According to Mr. Schuler, [REDACTED]

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Accordingly, Hunt plans to join BP in suits against purchasers of Sarir crude in Italy (where an unfavorable lower court ruling is being appealed) and Greece. They also intend to initiate suits in Brazil (against Petrobras) and in the U.S. against Coastal States Gas and Ashland Oil (California). While fully cognizant of the difficulties their legal efforts are likely to encounter, Schuler hoped that at a minimum their action would make the LARG think twice before moving against the other American producers in Libya.

Schuler requested that the USG assist them by:

[REDACTED] B4

In connection with the second point, Schuler asked [REDACTED] B4

[REDACTED]

With regard to suits that are likely to be brought in the U.S., Schuler indicated that the company may request a so-called "Bernstein letter" from the Department. This would be a statement from the Department to the effect that the USG did not believe it would be an embarrassment to our foreign relations to have a U.S. court in effect rule on the legality of a Libyan Government action. This might avoid a refusal by a U.S. court to hear a case brought by Hunt on the grounds that it involved an "act of state" of a sovereign government.

Observing that the USG had already sent a general note to the LARG on the nationalization, Mr. Casey said that the Department would be willing to send a supplementary note to the LARG [REDACTED] B4

[REDACTED] Mr. Blake suggested, and it was agreed, that the new U.S. note would be sent immediately after Hunt made a public announcement (issued on July 3) of how it intended to contest the Libyan action. Mr. Casey said that we would look into how we could properly be helpful in [REDACTED] other [REDACTED] areas [REDACTED] B4

Mr. Bennsky remarked that if the LARG is successful in moving the Sarir crude, it might be tempted to move against the other American producers in Libya. There would be a much greater possibility of success, he felt, in trying to

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block distribution of the relatively small amount (around 250,000 b/d) of crude from the Hunt/BP concession than there would be if a substantial proportion of Libyan oil production were involved. Mr. Casey concurred, adding that the outcome of the Bunker Hunt/BP case might determine what happens to the other companies.

A preliminary meeting with Messrs. Schuler and Conant was held with Assistant Secretary Armstrong on Wednesday, June 27. Acting Legal Adviser Charles Brower attended that meeting as well.

Clearance:

EB/IFD/OIA - Mr. Kennedy

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